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EXAMINER

FUREMAN, JARED

ART UNIT PAPER NUMBER

2876

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/808,062

Applicant(s)

DULDHARDT, MARIANNE

Examiner

Jared J. Fureman

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 2876

### DETAILED ACTION

Receipt is acknowledged of the associate power of attorney and amendment, filed on 4/4/2003, which have been entered in the file. Claims 1-6 and 10-23 are pending.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al (GB 2 073 550 A, previously cited) in view of the admitted prior art.

Brewster et al teaches a product care label (see figures 1 and 2) to be attached to a textile product (laundry articles), comprising: a label including information on suitable care of a textile product (a punch pattern or external color code readable by a human, representative of laundering sequences), a plurality of transponders (see figures 1, 2, page 1 lines 54-60, and page 5 lines 18-35) each attached to the label, each having a respective electronic component (pads 11, 14, tails 12, 15, etc.), and each being associated with a respective care instruction (the frequency of the transponders indicate a laundering sequence), each respective electronic component holding information corresponding to a respective care instruction, wherein the information held by the electronic component is electronic information, wherein the electronic component is applied to the label, wherein the electronic component is

printed on the textile carrier part, wherein the electronic component is a flat chip/coil (the pads 11 and 14 represent a chip and the spiral tail 12 represents a coil), wherein the plurality of transponders have a synthetic resin encasing (an additional layer of plastic over the circuit pattern) the electronic component, simultaneously attaching a plurality of transponders onto a carrier tape (a label), wherein the carrier tape is a plastic tape, wherein the attaching step is performed by simultaneously applying/printing the plurality of transponders to the carrier tape, pressing/introducing (via printing) a flat chip/coil (the pads 11 and 14 represent a chip and the spiral tail 12 represents a coil) into a synthetic resin casing (an additional layer of plastic over the circuit pattern printed on the plastic label) (see figures 1, 2, page 1 lines 7-12, 26-32, 54-60, 78-88, page 2 lines 24-56, page 2 line 98 - page 3 line 4, page 3 lines 12-34, and page 5 lines 18-35).

Brewster et al fails to specifically teach the label being a textile carrier part having a plurality of care symbols, each of the transponders being associated with a respective care symbol, the information corresponding to a respective care symbol, printing a care symbol onto a carrier tape, wherein the carrier tape is a textile tape.

The admitted prior art teaches that product care labels are usually made of textile or plastic strips or tabs onto which care instructions in the form of symbols are printed, woven, or embroidered (see page 2, line 21 - page 4, line 16, of the specification).

In view of the admitted prior art, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system and method as taught by Brewster et al, the label being a textile carrier part having a plurality of care symbols, each of the transponders being associated with a respective care symbol, the

Art Unit: 2876

information corresponding to a respective care symbol, printing a care symbol onto a carrier tape, wherein the carrier tape is a textile tape, in order to provide a label containing conventional human readable care symbols as well as machine readable care instructions, thus allowing a user without appropriate electronic equipment to determine the proper care of the textile product, thereby providing compatibility with conventional systems.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al as modified by the admitted prior art further in view of Tuttle et al (US 6,078,791, previously cited).

The teachings of Brewster et al as modified by the admitted prior art have been discussed above.

Brewster et al as modified by the admitted prior art fails to teach wherein the attaching step is performed by fastening the plurality of transponders on the carrier tape with an adhesive.

Tuttle et al teaches a transponder label and a method of producing a transponder label, comprising: printing an electronic component/transponder (loop antenna 19) on a carrier part/tape, fastening the at least one transponder on the carrier tape with an adhesive (epoxy) (see figures 1B, 11, 12, column 2 lines 20-57, column 3 lines 44-51, column 4 line 62 - column 5 line 17, column 6 lines 36-50, column 11 lines 6-18, 43-58, column 12 lines 10-27).

In view of Tuttle et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system and method as

Art Unit: 2876

taught by Brewster et al as modified by the admitted prior art, wherein the attaching step is performed by fastening the plurality of transponders on the carrier tape with an adhesive, in order to allow efficient mass production of the labels.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al as modified by the admitted prior art further in view of Reber et al (US 5,715,555, previously cited).

The teachings of Brewster et al as modified by the admitted prior art have been discussed above.

Brewster et al as modified by the admitted prior art fails to specifically teach the transponders being configured to be detected by a household appliance.

Reber et al teaches a smart laundry system and method including transponders (tags 22) configured to be detected by a household appliance (washing machine 26 or drying machine 28, for example) (see figure 1, column 2 lines 20-32, column 2 line 50 - column 4 line 10).

In view of Reber et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Brewster et al as modified by the admitted prior art, the transponders being configured to be detected by a household appliance, in order to ensure that items are laundered properly (see column 3 lines 56-67 of Reber et al).

#### ***Response to Arguments***

5. Applicant's arguments filed 4/15/2003 have been fully considered but they are not persuasive.

Art Unit: 2876

In response to applicant's argument that the present invention is concerned with a different problem than the Brewster et al reference (see page 6 of the amendment filed on 4/15/2003), The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. *In re Linter*, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972); *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1990), *cert. denied*, 500 U.S. 904 (1991). Although *Ex parte Levengood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993) states that obviousness cannot be established by combining references "without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done" (emphasis added), reading the quotation in clear context it is clear that while there must be motivation to make the claimed invention, there is no requirement that the prior art provide the same reason as the applicant to make the claimed invention (see MPEP 2144, page 2100- 115).

In response to applicant's argument that Brewster et al is concerned with sorting of laundry by mechanical means prior to the items being cleaned, dried, ironed, etc., Brewster et al is not concerned with individual processes but only a sorting of the laundry into compatible groups (see page 7 of the amendment filed on 4/15/2003), while Brewster et al teaches sorting laundry items prior to processing, the reason the items are sorted is because the items may require different processing steps or conditions for best results and minimum damage (see page 1 lines 78-83). Thus, Brewster et al is

Art Unit: 2876

concerned with the individual processes, since the items are sorted according to the individual processes that the particular items require.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the transponders transmit information to corresponding household appliances; the user does not have to take the time to enter the information for the care cycle of a particular appliance; in the event that a user selects an unsuitable care program, the cycle will not be started or the user will be advised of the incorrect selection; see page 7 of the amendment filed on 4/15/2003) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Brewster et al teaches away from the combination (see page 8 of the amendment filed on 4/15/2003), Brewster et al teaches that automatic sorting with no human intervention is the ideal situation, but a visible code is provided so that an item may be manually sorted in the event of system failure (see page 2 line 124 - page 3 line 4). Thus, Brewster et al does not teach away from the inclusion of a visible code, but rather teaches that including a visible code is desirable, in order to allow manual sorting if the automatic sorting system fails.

In response to applicant's argument that there is no suggestion to combine the references (see pages 8-10 of the amendment filed on 4/15/2003), the examiner recognizes that obviousness can only be established by combining or modifying the

Art Unit: 2876

teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Brewster et al teaches automatically sorting laundry items according to the items care requirements, and that it is desirable to include a visible code in order to allow manual sorting if the automatic system fails (see page 2 line 124 - page 3 line 4). The admitted prior art teaches that conventional care labels contain care symbols, for example, to define the proper care processes (see page 2 line 21 - page 3 line 7). Thus, these care symbols are conventionally used to convey, to the user, the required care processes. Therefore, one of ordinary skill in the art at the time of the invention would have modified the teachings of Brewster et al to include the use of care symbols, rather than merely a visible code as taught by Brewster et al, since users are likely to already know the meaning, of many if not all, of the conventional care symbols. The use of conventional care symbols means that the users would not have to learn the meanings of a new coding system, thereby making the Brewster et al system more user friendly and easier to implement. Thus, while Brewster et al does teach a visible code to allow manual sorting if necessary, the use of conventional care symbols represents a better solution since the meaning of the conventional care symbols may already be known to the user.

6. Applicant's arguments with respect to claim 23 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2876

As discussed above, Reber et al teaches a household appliance that is configured to detect transponders attached to laundry items.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richman (US 6,535,128 B2) and Kohn et al (WO 03/010712 A1) both teach the use of transponders for identifying laundry items and textiles. Lee (US 5,388,299) teaches a washing machine that is programmed by reading washing information on information mediums attached to clothes.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703)

Art Unit: 2876

305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

June 23, 2003

*Jared J. Fureman*  
Jared J. Fureman  
*Art Unit 2876*